

Pesticide Regulatory Program Funding

The Department of Pesticide Regulation is supported by various fund sources, including the General Fund, Department of Pesticide Regulation (DPR) Fund, Federal Trust Fund and reimbursements.

History of Program Funding

A long-standing policy of the Department of Food and Agriculture (of which the pesticide regulatory program was a part until 1991) was that the General Fund should be used for programs that directly benefitted the general public or agriculture in general, while programs that directly benefitted an identifiable segment of industry should be supported by special charges or fees. This distinction, while initially clear cut, became blurred over the years.

Pesticide and pest control legislation in the early part of the twentieth century was sponsored by the regulated industry and was clearly focused on preventing fraudulent practices and unfair competition. During these years, those activities clearly related to registration and product quality were fully funded by industry fees, which were increased as necessary to keep the programs self-supporting.

When the Department's first produce testing was authorized by the Chemical Spray Residue Act of 1927, consumer and public health protection was incorporated into the Department's pesticide regulatory program. The regulatory aspect of the residue monitoring program has been supported by the General Fund since its inception.

As the pesticide regulatory program grew through new statutory mandates, new mechanisms were created for funding industry-supported programs. Industry funding was consolidated in the Agriculture Fund, which was renamed the DPR Fund with the creation of Cal/EPA in 1991. Along with minor amounts from penalty assessments, earned interest, and other miscellaneous amounts, the DPR Fund revenues consist of three primary sources: mill assessments, annual certificates of product registration, and pesticide-related business licenses.

Mill Assessment

In 1971, a mill assessment on pesticide sales was enacted (Chapter 1367, SB 825). For each dollar of sales of a pesticide registered and labeled for use in California (including spray adjuvants), a mill rate is assessed. (One mill is equivalent to \$0.001 or 1/10th of one cent.) The rate was set at 8 mills (\$.008), with County Agricultural Commissioners receiving 62.5 percent of these funds for local enforcement of pesticide laws.

The Food Safety Act of 1989 (Chapter 1200, AB 2161) increased the assessment to 9 mills. The bill authorized full pesticide use reporting and enhanced produce monitoring among other food safety measures. The increased revenue was to cover the additional costs of these programs at the county level.

In 1990, DPR lost General Fund revenues as part of the State's effort to address a statewide budget crisis. To compensate for loss of General Funds, the mill assessment was increased (Chapter 1679, Statutes of 1990, AB 2419) from 9 to 18 mills, with counties receiving 31.25% of the revenues to keep their funding consistent with the amount they had been receiving. The legislation included a sunset clause to revert the mill assessment to 9 mills on July 1, 1992.

The California agricultural chemicals laws are practical and effective. They serve those influenced; and each manufacturer, user, and official is doing his indispensable part.
– 1940 Department annual report

Whether a substance is a pesticide and under the jurisdiction of that law depends not only upon the nature of the substance and the information on the label, but also upon intended uses and upon printed, written, or oral claims. For example, petroleum oil sold for use solely as a fuel or lubricant is not a pesticide, but the same material is a pesticide when sold or intended for application to plants to control scale insects, or as a spray to control weeds, or for application to ponds to control mosquitoes.
 – 1944 Department annual report

In 1992, California continued to face large deficits and the Legislature further reduced General Fund support and increased the mill assessment (Chapter 706, SB 1850) to a total of 22 mills, with a sunset clause of July 1, 1997. Twenty-one mills continued to be divided between DPR and the counties. The 22nd mill was divided between CDFA and the counties. The counties received 32.5 percent of the additional mill to help fund costs associated with collection of pesticide use data. CDFA received 67.5 percent of one mill to fund its Pesticide Consultation and Analysis Unit. (The unit was formed when the pesticide program was moved from CDFA to Cal/EPA, to implement a requirement in the GRP-1 that DPR consult with CDFA on certain pesticide-related regulatory actions. GRP-1 established Cal/EPA in 1991.)

In 1993, legislation (Chapter 1176, AB 770) closed a loophole in the collection of the mill assessment by identifying the person who first sold the pesticide into or within the State, whether the registrant, a pesticide broker, or a pesticide dealer, as the responsible party for paying the assessment.

In 1997, legislation (Chapter 695, SB 1161) increased the mill assessment, which under the previous legislative sunset date had reverted to 9 mills two months before. As a result, the rate was 15.15 mills from January 1, 1998 through March 31, 1999 and increased to 17.5 mills (the maximum allowed under SB 1161) beginning April 1, 1999. Between January 1, 1998 and January 1, 2003, the Director has the authority to lower the mill rate, with certain restrictions. Without intervening legislative action, the rate again sunsets to 9 mills effective January 1, 2003. In addition, between January 1, 1998 and January 1, 2003, the Director may collect an additional assessment of up to three-fourths mill (from agricultural products only) to directly support or augment the funding of CDFA's pesticide consultation activities.

DPR distributes 6 mills of the assessment revenues to the CACs. State law limits expenditure of the remaining mill assessment revenues to the program areas authorized by Chapters 2, 3, and 3.5 of Division 7 of the FAC. Those program areas include, but are not limited to, the following major areas of activity: agricultural pest control research, pesticide registration, worker safety, collection of toxicology data and preparation of risk assessments, and regulation of the use of restricted materials and environmentally harmful materials.

Payment of the mill assessment is due quarterly. DPR must receive the funds no later than one month after the close of each calendar quarter. Products registered for reformulation (sold to someone who then repackages and registers the product) or products registered by governmental agencies are exempt from the mill assessment requirements.

Certificates of Registration

Each year, to sell a pesticide for use in California, manufacturers of, importers of, or dealers in any pesticide must obtain a certificate of registration from DPR. The certificate expires December 31 of each year. Industry support of registration activities was increased in 1987 when product registration fees went from \$40 to \$200. Statute authorizes use of these fees for the same purposes as mill assessment revenues.

Pesticide-Related Business Licenses

Statute requires various pesticide-related businesses (e.g., agricultural pest control business, maintenance gardener, qualified applicator) to be licensed by DPR and establishes the rate and term of the various licenses. The annual fees range from \$15 to \$200. Generally, licenses are issued for two years. Major exemptions from licensing requirements include: structural pest control business (licensed by the Structural Pest Control Board of the Department of Consumer Affairs); businesses performing preservative treatment of fabrics or structural materials; household or industrial sanitation services; treatment of seed when this activity is only incidental to the person's regular business; and removal of pests without the use of pesticides.

Generally, license fees may be used for the administration and enforcement of licensing activities, including the issuance of a license and the regulation of the activities of those licensed. Further, DPR distributes 60 percent of these funds to the counties, based on the share of license holders in each county.

Audits

DPR's Audit Branch performs audits of pesticide registrants, licensed dealers and brokers to ensure compliance with fee and registration requirements. The branch also investigates sales of unregistered pesticide products sold for use in California and helps provide a level playing field for registrants, licensed dealers and brokers, and consumers.

Food Safety Account

California's Food Safety Act of 1989 (Chapter 1200, AB 2161) created a Food Safety Account, within the DPR Fund, supported by revenues collected from a surcharge on farm products and produce dealer and food processor annual license fees. Activities to be funded from this account include pesticide residue monitoring, review of pesticide residue analytical methods, research into alternative pest management practices, pesticide use reporting, and risk assessments on dietary exposure.

Legislation in 1997 (Chapter 727, AB 1559) redirected the surcharge back to the Department of Health Services effective December 31, 1998 , and provided that after that date, sufficient monies will be transferred annually from the DPR Fund to the Food Safety Account to cover program activities.

Other Fund Sources

Additional funding is also received from the U.S. EPA, U.S. Food and Drug Administration and U.S. Department of Agriculture. These funds support the Department's activities that are performed jointly or on behalf of these federal agencies.

A small percentage of the Departmental budget is provided by reimbursements, which are repayments of the cost of work or service performed or of other expenditures made for, or on behalf of, another governmental unit or department.

Registrants of good products are encouraged to take pride in them and to help lead law enforcement against unfair competitors. It is plain stupidity when one tries to beat the law or to make a stake and leave California. In the end, he will likely suffer more than a customer to whom he makes an illegal sale.
– 1944 Department annual report

